

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|------------------|---|---|
| TONY MALONE, |) | |
| |) | CASE NO. 1:15CV1652 |
| Petitioner, |) | |
| |) | |
| v. |) | JUDGE BENITA Y. PEARSON |
| |) | |
| MICHELLE MILLER, |) | |
| |) | |
| Respondent. |) | <u>MEMORANDUM OF OPINION AND</u> |
| |) | <u>ORDER</u> |

Pro se Petitioner Tony Malone filed a Petition for a Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) ([ECF No. 1](#)), alleging two (2) grounds for relief which challenge the constitutional sufficiency of his sentence pursuant to a plea agreement and plea proceedings in which Petitioner pleaded guilty to one (1) count of rape and two (2) counts of sexual battery in Cuyahoga County, Ohio Court of Common Pleas Case Nos. CR-13-581218 and CR-14-583476.

On August 19, 2016, the case was referred to Magistrate Jonathan D. Greenberg for preparation of a Report and Recommendation pursuant to [28 U.S.C. § 636](#) and [Local Rule 72.2\(b\)\(2\)](#). On March 7, 2017, the magistrate judge submitted a report ([ECF No. 17](#)) recommending that the petition be dismissed as procedurally defaulted.

(1:15CV1652)

[Fed. R. Civ. P. 72\(b\)\(2\)](#) provides that objections to a report and recommendation must be filed within fourteen (14) days after service.¹ Petitioner has not filed any objections to the magistrate judge's report and recommendation. Any further review by the Court would be a duplicative and inefficient use of the Court's limited resources. [Thomas v. Arn](#), 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); [Howard v. Secretary of Health and Human Services](#), 932 F.2d 505 (6th Cir. 1991); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981). Accordingly, the Court adopts the magistrate judge's Report and Recommendation ([ECF No. 17](#)). Petitioner Tony Malone's Petition for a Writ of Habeas Corpus is dismissed.

The Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).

IT IS SO ORDERED.

March 31, 2017
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

¹ Under [Fed. R. Civ. P. 6\(d\)](#), three days must be added to the fourteen-day time period because Petitioner was served the Magistrate Judge's Report by mail. *See Thompson v. Chandler*, 36 F. App'x. 783, 784 (6th Cir. 2002).